

922 KAR 6:040. Termination of funding and hearing procedures.

RELATES TO: KRS 273.451

STATUTORY AUTHORITY: KRS 194A.050, 273.448, 42 U.S.C. 9901-9912, Title 45 C.F.R. 96.1

NECESSITY, FUNCTION, AND CONFORMITY: This administrative regulation establishes the conditions by which the cabinet may terminate Community Services Block Grant (CSBG) funding to a grantee. This administrative regulation also addresses the grantee's right to request and receive a hearing before a qualified hearing officer.

Section 1. Grantee Termination. For the purpose of this part, administrative requirements specified in 42 U.S.C. 9901-9912 and KRS 273.451 are applicable.

(1) A community action agency (CAA), either established with local designation or state recognition under the Community Services Block Grant Act (the Act) or under the Kentucky CSBG program in accordance with the Act and the Community Action Law in KRS Chapter 273 shall be awarded continuing CSBG program administering responsibilities in its established jurisdiction unless the following shall occur:

(a) The CAA submits written communication to the Department for Community-Based Services stating its desire to discontinue operation of the program;

(b) Material failure by the CAA to comply with 42 U.S.C. 9901-9912, or 45 C.F.R. 96.30, 96.51, 96.90, or 96.91; the provisions of the state CSBG plan or provisions of KRS 273.405-273.453; or 922 KAR 6:010. Material failure includes:

1. Fraud;
2. Disallowance of costs which could render a CAA insolvent; or
3. Denial of access to records of grant-related transactions.

(c) The CAA lacks the authority or capability to receive, administer, and account for funds in a manner that conforms with applicable federal or state requirements or with generally accepted accounting principles;

(d) The CAA is not capable of effectively planning, conducting, administering, or evaluating CSBG funded programs or projects;

(e) The CAA fails to conform in one (1) or more ways to the assurances relating to the structure and operation of CSBG program contractors that the Commonwealth of Kentucky has provided the United States Department of Health and Human Services, including prohibitions regarding partisan political activities, voter registration, and transportation of voters to the polls; or

(f) The CAA is structured and functions in a manner inconsistent with state or federal laws or administrative regulations.

(2) Upon discovery of one (1) or more of the conditions noted in paragraphs (b) through (f) of this subsection, the cabinet shall notify the CAA in writing of its initiation of the termination process and the reasons for termination. The notice shall advise the CAA that, in accordance with this section and 42 U.S.C. 9901-9912, it is entitled to an informal hearing.

Section 2. Hearing Procedures. The CAA shall be given fifteen (15) days from receipt of notification to inform the cabinet in writing that it wishes to exercise its right to a hearing. The hearing shall be conducted within thirty (30) days of the original notification of initiation of the termination process. The notification shall also include:

(1) A requirement that the CAA, to receive continued CSBG funding, shall agree to cooperate with the cabinet appointed hearing officer throughout the termination process.

(2) If the CAA does not agree to submit to the cabinet review specified in Section 1 of this administrative regulation, the cabinet shall send to the CAA a notice of funding suspension, pending termination, pursuant to this administrative regulation and as governed by KRS 273.451. Simultaneous

with suspension notice to the CAA's, the cabinet shall notify the U.S. Department of Health and Human Services and the department shall advise the suspended CAA of its right to seek direct funding from the U.S. Department of Health and Human Services.

(3) The services of an impartial hearing officer shall be obtained by the cabinet. Notice of the hearing time and date shall be provided, with proof of receipt of notice, to both the CAA or appropriate public officials at least ten (10) days prior to the hearing. The cost for the hearing officer and the services of the certified reporter and the original transcript of the proceedings shall be borne by the Cabinet for Health and Family Services. The CAA shall bear the cost of its copy of the transcript of proceedings.

(4) The hearing shall be conducted in accordance with due process before a qualified hearing officer. The report of the hearing officer shall be sent by registered mail to both parties within thirty (30) days of the completion of the hearing.

(5) The cabinet shall review the hearing officer's recommendation and shall base its decision on findings of fact and conclusions of law that substantiate grant termination pursuant to this administrative regulation. The cabinet shall notify the CAA of the cabinet's final determination within thirty (30) days.

(6) If the cabinet's decision is to suspend or terminate funding to the CAA, the cabinet shall also, with its notice to the CAA, advise the CAA of the provisions for review of the termination proceedings to the Secretary of the U.S. Department of Health and Human Services pursuant to Section 676(a) of the Act. (16 Ky.R. 306; Am. 551; eff. 9-20-1989; 20 Ky.R. 2452; 2863; eff. 3-23-1994; Recodified from 905 KAR 6:040, 10-30-1998; TAm eff 10-29-2004; TAm eff. 8-1-2005.)